

Phillips Lytle LLP  
Angela Z. Miller (AM4473)  
Allan L. Hill (AH3707)  
437 Madison Avenue, 34th Fl.  
New York, New York 10022  
Telephone: (212) 759-4888  
and  
3400 HSBC Center  
Buffalo, New York 14203  
Telephone: (716) 847-8400  
Fax: (716) 852-6100

**Hearing Date: July 22, 2010 at 9:30 a.m.**

**Objection Due: June 7, 2010**

**Reply Due: July 2, 2010**

*Attorneys for E.I. du Pont de Nemours and Company*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
In re:	:	Chapter 11
	:	
DPH HOLDINGS CORP., <i>et al.</i> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
-----X	:	
DELPHI CORPORATION, <i>et. al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
DUPONT COMPANY, DUPONT CO.,	:	
DUPONT ELECTRONIC MATRLS. INC.,	:	
DUPONT P & E M CO., DUPONT POWDER	:	
COATINGS, DUPONT POWER COATINGS	:	Adv. Pro. No. 07-02242 (RDD)
USA INC., E I DUPONT DE NEMOURS,	:	
E I DUPONT DE NEMOURS & CO. INC.,	:	
and DUPONT E I DE NEMOURS INC.,	:	
	:	
Defendants.	:	
-----X	:	

**JOINDER OF E. I. DU PONT DE NEMOURS AND COMPANY TO MOTIONS  
(I) TO VACATE PRIOR ORDERS ESTABLISHING PROCEDURES FOR CERTAIN  
ADVERSARY PROCEEDINGS, INCLUDING THOSE COMMENCED BY THE  
DEBTORS UNDER 11 U.S.C. §§ 541, 544, 545, 547, 548, OR 549, AND EXTENDING  
THE TIME TO SERVE PROCESS FOR SUCH ADVERSARY PROCEEDINGS,  
(II) PURSUANT TO FED. R. CIV. P. 12(B) AND FED. R. BANKR. P. 7012(B)  
DISMISSING THE ADVERSARY PROCEEDING WITH PREJUDICE, OR  
(III) IN THE ALTERNATIVE, DISMISSING THE ADVERSARY PROCEEDING  
ON THE GROUND OF JUDICIAL ESTOPPEL**

E. I. du Pont de Nemours and Company ("DuPont"), by its undersigned attorneys, hereby  
joins in and adopts, with respect to the above captioned adversary proceeding, the arguments set

forth in the Motion by Wagner-Smith Company Seeking an Order (i) Pursuant to Fed. R. Civ. P. 60 and Fed. R. Bankr. P. 9024, Vacating Prior Order Establishing Procedures for Certain Adversary Proceedings, Including Those Commenced by the Debtors Under 11 U.S.C. §§ 541, 544, 545, 547, 548 or 549, and Extending the Time to Serve Process for Such Adversary Proceedings, and (ii) Pursuant to Fed. R. Civ. P. 12(b) and Fed. R. Bankr. P. 7012(b), Dismissing the Adversary Proceeding With Prejudice, or (iii) in the Alternative, Dismissing the Adversary Proceeding on the Ground of Judicial Estoppel, dated February 5, 2010 (Docket No. 19401) (“Wagner-Smith Motion”); and Motion by Microchip Technology Incorporated Seeking an Order (i) Pursuant to Fed. R. Civ. P. 60 and Fed. R. Bankr. P. 9024, Vacating Prior Orders Establishing Procedures for Certain Adversary Proceedings, Including Those Commenced by the Debtors Under 11 U.S.C. §§ 541, 544, 545, 547, 548, or 549, and Extending the Time to Serve Process for Such Adversary Proceedings, (ii) Pursuant to Fed. R. Civ. P. 12(b) and Fed. R. Bankr. P. 7012(b), Dismissing the Adversary Proceeding with Prejudice, or (iii) In the Alternative, Dismissing the Adversary Proceeding on the Ground of Judicial Estoppel, dated March 15, 2010 (Docket No. 19677) (“Microchip Motion” and, together with the Wagner-Smith Motion, the “Motions”), and as such seeks an order of this Court:

(i) vacating, with respect to DuPont, pursuant to Fed. R. Civ. P. 60 and Fed. R. Bankr. P. 9024, the orders of this Court, dated August 16, 2007 (the “Preservation of Estate Claims Procedures Order”); March 28, 2008 (the “Extension of Avoidance Action Service Deadline Order”); April 30, 2008 (the “Postconfirmation Extension of Avoidance Action Service Deadline Order”); and October 22, 2009 (the “Supplemental Postconfirmation Extension of Avoidance Action Service Deadline Order” and, together with the Extension of Avoidance

Action Service Deadline Order and the Postconfirmation Extension of Avoidance Action Service Deadline Order, the “Extension Orders”), on the grounds that each such order is void against DuPont by virtue of the Debtors’ and Plaintiffs’ intentional failure to provide DuPont with notice of the Motions and that the Extension Orders were improvidently made; and

(ii) dismissing, with prejudice, the above captioned adversary proceeding (“Adversary Proceeding”) against DuPont, pursuant to Fed. R. Civ. P. 12(b) and Fed. R. Bankr. P. 7012(b) on the ground that it is barred by the two-year statute of limitations imposed by 11 U.S.C. § 546(a) and, therefore, fails to state a claim upon which relief may be granted; or

(iii) in the alternative, dismissing, with prejudice, the Adversary Proceeding against DuPont on the ground that it is barred by judicial estoppel.

**WHEREFORE**, for all the reasons set forth in the Motions, DuPont respectfully requests that: (i) each of the Preservation of Estate Claims Procedures Order, the Extension of Avoidance Action Service Deadline Order, the Postconfirmation Extension of Avoidance Action Service Deadline Order, and the Supplemental Postconfirmation Extension of Avoidance Action Service Deadline Order be vacated as against it; (ii) the Complaint initiating the Adversary Proceeding (“Complaint”) be dismissed with prejudice for failing to state a claim upon which relief can be granted; or (iii) in the alternative, the Complaint be dismissed with prejudice as being barred by judicial estoppel; and (iv) for such other and further relief as this Court may deem appropriate.

Dated: New York, New York  
May 10, 2010

PHILLIPS LYTTLE LLP

By /s/ Angela Z. Miller  
Angela Z. Miller (AM4473)  
Allan L. Hill (AH3707)  
437 Madison Avenue, 34th Floor  
New York, NY 10022  
Telephone No. (212) 759-4888  
and  
3400 HSBC Center  
Buffalo, New York 14203  
Telephone No. (716) 847-8400  
Fax (716) 852-6100

Attorneys for E.I. DuPont de Nemours and Company

JPF2or/hj  
Doc # 01-2368563.3